

NEW HAMPSHIRE LAW LIBRARY

December 6, 1954

SEP 22 1998

CONCORD, N.H.

Frank D. Merrill
Commissioner of Public Works and Highways
State House Annex
Concord, New Hampshire

Re: Microfilm copies of Highway Records

Dear General Merrill:

You have asked under date of December 3, 1954 for opinion relative to the requirements for preserving original records "(such as final road plans) for which a duly attested microfilm copy would not be acceptable" and also what administrative action is required to give microfilm copies "the same standing in court" as an original document.

Laws of 1947, c. 229 makes provision for dealing with files of state departments, for destruction of unnecessary records and for the "preserving, storing, microfilming of files of historical value or those that may be required to be kept by law." Dealing as they do with the state's title to property and easements for highway and related purposes which itself requires not only ~~the~~ the existence of records of compliance with constitutional and statutory procedural steps in the acquisition and construction of highways but also the existence of such records in connection with the title to real estate of those abutting state highways, it is obvious that permanent retention of original records is required unless microfilming or recording in registries of deeds can be found to be adequate substitutes for an original.

In addition to the provisions of Laws of 1949, c. 281, relating to the admissibility of photographic reproductions generally in administrative or judicial proceedings the highway law, so called, R. L. c. 60, Part 10, s. 20 as inserted by Laws of 1945, c. 188 makes special provision for the admissibility in evidence of copies of records, maps and plans "when certified by the commissioner or assistant commissioner under oath to be true copies."

C O P Y

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Frank D. Merrill
Commissioner of Public Works and Highways

In considering highway records within the narrow orbit of admissibility in evidence in court it occurs to me that the historical value of such files may require retention of the originals in many cases. By statute, some records are kept by the Secretary of State (i.e. Returns and certificate of Tender) and with various county registers of deeds (R.L. c.90, Part 4, s 24 as inserted by Laws of 1953, c. 175.)

The provisions of Laws of 1947, c. 229 should guide you unless there are some other factors which involve legal interpretation.

Very truly yours,

George F. Nelson
Assistant Attorney General

GPN/mmg